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OCA FILE Leg
RECPT # Record

1 June 1987
OCA 87-2324

MEMORANDUM FOR: (INTERNAL ADDRESSEES - INTELLIGENCE AUTHORIZATION BILL

STAT FROM: [redacted]
Deputy Director for Legislation
Office of Congressional Affairs

SUBJECT: FY '88 Intelligence Authorization Bill: SSCI Action

1. On May 20 1987, the Senate Select Committee on Intelligence (SSCI) reported out H.R. 1243, its version of the Fiscal Years 1988-1989 Intelligence Authorization bill. Unlike the House bill, the Senate bill authorizes funds for two years. Attached are copies of the S. 1243 and the accompanying report.

2. The bill now goes to the Senate Armed Services and Judiciary Committees for a 30 day time period. The bill could come to the Senate floor during July.

3. Contained below are highlights from the Senate bill of interest to the Intelligence Community.

Enhanced Counterintelligence Capabilities

4. The bill requires the Attorney General to report annually to the HPSCI and the SSCI regarding the circumstances under which Soviet nationals are admitted to the U.S. despite FBI objections that such persons are known or suspected intelligence officers. The bill also gives the Director of the FBI authority to pay additional compensation to the N.Y. Field Division of the FBI to defray unusually high living expenses.

DoD Intelligence Personnel Improvements

5. The bill provides several new benefits and enhanced

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100TH CONGRESS
1ST SESSION

S. 1243

[Report No. 100–59]

To authorize appropriations for fiscal years 1988 and 1989 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 20 (legislative day, MAY 13), 1987

Mr. BOREN, from the Select Committee on Intelligence, reported the following original bill; which was read twice and ordered referred jointly to the Committees on Armed Services and the Judiciary for the thirty-day time period provided in section 3(b) of Senate Resolution 400, Ninety-fourth Congress: *Provided*, That the Committee on the Judiciary be restricted to the consideration of title IV: *Provided further*, That if either committee fails to report within the thirty-day time limit, such committee shall be discharged from further consideration of said bill

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A BILL

To authorize appropriations for fiscal years 1988 and 1989 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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That this Act may be cited as the "Intelligence Authorization Act, Fiscal Years 1988 and 1989".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal years 1988 and 1989 for the conduct of the intelligence activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1988, and September 30, 1989, for the conduct of the intelligence activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Select Committee on Intelligence of the Senate. That Schedule of Authorizations shall

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be made available to the Committee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

PERSONNEL CEILING ADJUSTMENTS

SEC. 103. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal years 1988 and 1989 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1988 the sum of $21,900,000 and for fiscal year 1989 the sum of $21,900,000.

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AUTHORIZATION OF PERSONNEL END STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized 237 full-time personnel as of September 30, 1988, and 237 full-time personnel as of September 30, 1989. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal years 1988 and 1989, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence activities.

(c) During fiscal years 1988 and 1989, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal years 1988 and 1989, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947

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(50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1988 the sum of $134,700,000 and for fiscal year 1989 the sum of $144,500,000.

TITLE IV—ENHANCED COUNTERINTELLIGENCE AND SECURITY CAPABILITIES

REPORT ON ADMISSION OF CERTAIN ALIENS

SEC. 401. The Attorney General shall report annually to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence regarding the circumstances of any admission to the United States over the objections of the Federal Bureau of Investigation, of any Soviet national employed by or assigned to a foreign mission or international organization in the United States.

FBI NEW YORK FIELD DIVISION COMPENSATION

SEC. 402. The Director of the Federal Bureau of Investigation is authorized to pay from appropriated funds additional compensation to the New York Field Division of the Federal Bureau of Investigation to the extent necessary and

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appropriate to defray unusual living expenses associated with such employment.

TITLE V—DOD INTELLIGENCE PERSONNEL IMPROVEMENTS

DIA CIVILIAN UNIFORM ALLOWANCE ADJUSTMENT

SEC. 501. (a) Chapter 13 of title 10, United States Code, is amended by inserting after section 1605 the following new section:

"§ 1606. Civilian Uniform Allowance

"Notwithstanding the provisions of subsection 5901(a) of title 5, United States Code, the Director Defense Intelligence Agency is authorized to pay from appropriated funds civilian employees of Defense attaché offices located outside the United States, who are required by agency regulations to wear a prescribed uniform as part of their official duties, a uniform allowance, not to exceed the amount prescribed by the Secretary of State for its civilian employees outside the United States pursuant to section 2669(e) of title 22, United States Code.".

SPECIAL TERMINATION AUTHORITY—DIA CIVILIAN EMPLOYEES

SEC. 502. Paragraph 1604(e)(1) of title 10, United States Code, is amended by striking the words "1986" and "1987", and inserting in lieu thereof the words "1988" and "1989", respectively.

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NSA AND DIA EMPLOYEES—EQUALIZING TAX TREATMENT OF PERSONNEL BENEFITS

SEC. 503. Section 912(1) of chapter 1 of title 26, United States Code, is amended by striking the "or" in Paragraph (C) and inserting at the end thereof the following new paragraphs:

"(E) Subsection (b) of section 9 of the National Security Agency Act of 1959, as amended (50 U.S.C. Section 402 note), whenever the allowance would be excluded from gross income under paragraphs (1)(A) or (1)(B) of this section, or

"(F) Subsection 1605(a) of title 10, United States Code, whenever the allowance would be excluded from gross income under paragraph 1(A) of this section.".

SPECIAL PERSONNEL MANAGEMENT AUTHORITY DOD MILITARY INTELLIGENCE

SEC. 504. Paragraph 1590(e)(1) of chapter 81 of title 10, United States Code, is amended by striking "Fiscal Year 1987" and inserting in lieu thereof "Fiscal Years 1988 and 1989".

REQUIREMENTS TO DISCLOSE ORGANIZATIONAL AND PERSONAL DATA: DIA EXEMPTION

SEC. 505. (a) Chapter 83 of title 10, United States Code, is amended by inserting the following new section:

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"§ 1607. Exemption from disclosing organizational and personnel data

"Notwithstanding the provisions of any other law, and except as provided herein, the Defense Intelligence Agency shall not be required to disclose the organization or any function of the Defense Intelligence Agency or the names, official titles, occupational series, grades, salaries or numbers of personnel employed by such Agency. This section shall not apply to information provided the Congress.".

NSA GRADUATE-LEVEL "CRITICAL SKILLS" PROGRAM

SEC. 506. (a) Section 16(a) of the National Security Agency Act of 1959 is amended to read as follows:

"SEC. 16. (a). The purposes of this section are: (1) to establish an undergraduate training program, which may lead to the baccalaureate degree, to facilitate the recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to the mission of the National Security Agency, including mathematics, computer science, engineering, and foreign languages; and (2) to establish a graduate training program which may lead to a graduate degree to facilitate the retention of employees and the recruitment of new employees with a demonstrated capability to develop skills critical to this mission of NSA."

(b) Section 16(b) is amended by inserting the words "or graduate" after "undergraduate".

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(c) Paragraph (2) of Section 16(e) is amended by inserting the words "or graduate" after "undergraduate".

TITLE VI—GENERAL PROVISIONS

AUTHORITY FOR THE CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 601. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

SEC. 602. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

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100TH CONGRESS
1st Session | SENATE | REPORT
100-59

AUTHORIZING APPROPRIATIONS FOR FISCAL YEARS 1988 AND 1989 FOR INTELLIGENCE ACTIVITIES OF THE UNITED STATES GOVERNMENT, THE INTELLIGENCE COMMUNITY STAFF, THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM (CIARDS), AND FOR OTHER PURPOSES

MAY 20 (legislative day, MAY 18), 1987.—Ordered to be printed

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Mr. BOREN, from the Select Committee on Intelligence, submitted the following

REPORT

[To accompany S. 1243]

The Select Committee on Intelligence, having considered the original bill (S. 1243) authorizing appropriations for fiscal years 1988 and 1989 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

This bill would:

(1) Authorize appropriations for fiscal years 1988 and 1989 for (a) intelligence activities of the United States, (b) the Intelligence Community Staff, and (c) the CIA Retirement and Disability System;

(2) Authorize the personnel ceilings as of September 30, 1988 and September 30, 1989 for (a) the Central Intelligence Agency, (b) the Intelligence Community Staff, and (c) the other intelligence activities of the U.S. Government;

(3) Authorize the Director of Central Intelligence to make certain personnel ceiling adjustments when necessary to the performance of important intelligence functions;

(4) Make several legislative changes designed to enhance intelligence and counterintelligence capabilities and to promote the more effective and efficient conduct of intelligence and counterintelligence.

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OVERALL SUMMARY OF COMMITTEE ACTION

[In millions of dollars]

	Fiscal year 198[illegible]	Fiscal year 1988 request	Committee recommendation	Fiscal year 1989 request	Committee recommendation
Intelligence activities:					
IC staff	21.9	24.3	21.9	25.1	21.9
CIARDS	125.8	134.7	134.7	144.5	144.5

THE CLASSIFIED SUPPLEMENT TO THE COMMITTEE REPORT

The classified nature of U.S. intelligence activities prevents the Committee from disclosing the details of its budgetary recommendations in this Report.

The Committee has prepared a classified supplement to the Report, which describes the full scope and intent of its action. The Committee intends that the classified supplement, although not available to the public, will have the full force of a Senate Report, and that the Intelligence Community will fully comply with the limitations, guidelines, directions, and recommendations contained therein.

The classified supplement to the Committee Report is available for review and by any Member of the Senate, subject to the provisions of Senate Resolution 400 of the 94th Congress.

SCOPE OF COMMITTEE REVIEW

The Committee conducted a detailed review of the Intelligence Community's budget request for Fiscal Years 1988 and 1989. This was the first year in which the Committee has required and acted upon a budget request covering more than one fiscal year. The Committee's review included:

Hearings involving some 30 hours of testimony from the principal program managers for U.S. Intelligence, including: The Acting Director of Central Intelligence, the Director and Deputy Director Intelligence Community Staff, the Director National Security Agency, the Director Defense Intelligence Agency, the Executive Director of the Central Intelligence Agency, and senior officials of the Military Departments.

A hearing involving some 3 hours of testimony from the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence relative to Tactical Intelligence and Related Activities programs of the Department of Defense.

A hearing involving some 3 hours of testimony from the Director of the Arms Control and Disarmament Agency and the Undersecretary of Defense for Policy covering the Intelligence Community's arms control monitoring capabilities.

Detailed examination of over 3,000 pages of budget justification material provided by national and tactical intelligence program managers and all major government security activities.

Review of written answers from various officials to several hundred questions for the record.

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Numerous briefings and interviews with officials on major topics of interest.

The Committee continued to review intelligence programs based on the DCI's National Intelligence Strategy prepared in 1986 and updated in 1987. This Strategy projects the challenges and requirements that will face U.S. intelligence over the next decade, identifies the intelligence programs and activities necessary to meet those challenges, and sets forth a plan for the acquisition of needed capabilities taking into account the tight fiscal environment faced by all government activities.

COMMITTEE FINDINGS AND RECOMMENDATIONS

In previous years the Committee has reported its judgment that intelligence activities must be assigned a very high priority in overall national security investment. The Committee has also stated its concern over the debilitating effect budget constraints could have on the ability of the United States to field an effective intelligence capability in the future. These judgments have not changed, indeed, the situation has worsened.

U.S. intelligence has incurred significantly increased costs as a result of the tragic loss of the Space Shuttle Challenger and two successive failures of TITAN 34D launch vehicles. These unavoidable costs are absorbing scarce resources that otherwise could have financed needed investment in new intelligence capabilities.

The Committee has carefully reviewed intelligence capabilities against the broad range of requirements faced by the United States for detailed, timely, and accurate intelligence support. The Committee is confident that the recommendations it has made for the Fiscal Years 1988 and 1989 intelligence authorization, as contained in the classified supplement to this report, will deliver the type of intelligence system needed by the Nation as it approaches the 21st Century.

Congressional oversight of intelligence activities

The Committee recognizes that during the past year, as a result of the Iran-Contra affair, serious questions have been raised with respect to the effectiveness of the Congressional oversight process, particularly as it relates to oversight of covert actions. The Committee itself carried out a preliminary investigation of this matter, culminating in the issuance of a report on January 29, 1987, titled: "Preliminary Inquirty into the Sale of Arms to Iran and Possible Diversion of Funds to the Nicaraguan Resistance." The Senate voted to create a special select committee to carry out a more detailed examination of the affair and submit a report to the Senate by October 30, 1987.

In view of this continuing investigation, the Committee deferred taking any action in this area within the context of the Intelligence Authorization bill for Fiscal Years 1988 and 1989. The Chairman has expressed his intention to conduct a broad review of Congressional oversight of intelligence activities at the conclusion of the new select committee's work, at which time the Committee will recommend to the Senate such changes to the statutory oversight requirements as it considers appropriate.

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Notwithstanding this anticipated review of Congressional oversight, the Committee believes immediate action should be pursued to provide the Committee with its own independent audit capability of certain elements of the Intelligence Community. Currently, the budget staff of the Committee is not of sufficient size or requisite background to permit more than a few such reviews each year.

The Committee notes that the House of Representatives routinely subjects selected CIA and other Intelligence Community activities to detailed audits by the Surveys and Investigations staff of the Committee on Appropriations. The work of the Appropriations Committee in this regard has been of great benefit to the Intelligence Committees. The Senate does not have a comparable staff with the requisite security clearances dedicated to the conduct of such audits or investigations.

The Committee believes the time has come to consider strengthening its auditing capabilities to permit detailed in-depth independent review of a number of selected intelligence programs. The Committee plans to consider alternatives in this regard and make appropriate recommendations to the Committee on Rules and Administration in the near future.

Security matters pertaining to the Senate

The Committee notes that notwithstanding its recommendation to the Senate in the last Congress that an Office of Senate Security be established—a recommendation that was concurred in by the Committees on Rules and Administration, and Government Affairs—no such office has yet been established. The Committee continues to be concerned for the administration of security within the Senate as a whole, and fears that unless uniform, stringent controls are adopted and enforced, it is only a matter of time before a serious compromise of classified information occurs. The Committee strongly reiterates its concern and its recommendation that an Office of Senate Security be established to ensure the appropriate handling of classified information provided by the Executive branch and to monitor Senate staff security clearances.

In a matter related to the Committee on Armed Services, the classified annex to the conference report on the FY 1987 Department of Defense Appropriation Act directed the Executive branch to provide TEMPEST-shielded computer equipment to the Congressional Committees which review the National Foreign Intelligence Program and the DOD Tactical Intelligence and Intelligence-Related Program budgets. The Act reserved $200,000 for DIA for this purpose, over half of which remains available for obligation.

The report specified that TEMPEST-shielded equipment be provided to the Intelligence and Appropriations Committees, but omitted the Armed Services Committees who also have responsibility for portions of the budgets mentioned above. The Committee accordingly recommends that the same computer support provided the Intelligence and Appropriations Committees should also be provided the Armed Services Committees out of the funds which have been appropriated but remain unobligated.

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SECTION-BY-SECTION ANALYSIS

Title I—Intelligence activities

Section 101 lists the departments, agencies, and other elements of the United States Government for whose intelligence activities the Act authorizes appropriations for Fiscal Years 1988 and 1989.

Section 102 makes clear that details of the amounts authorized to be appropriated for intelligence and intelligence-related activities and personnel ceilings covered under this title for Fiscal Years 1988 and 1989 are contained in a classified Schedule of Authorizations. The Schedule of Authorizations is incorporated into the Act by this section.

Section 103 authorizes the Director of Central Intelligence in Fiscal Years 1988 and 1989 to expand the personnel ceilings applicable to the components of the Intelligence Community under Sections 102 and 202 by an amount not to exceed 2 percent of the total of the ceilings applicable under these sections. The Director may exercise this authority only when necessary to the performance of important intelligence functions or to the maintenance of a stable personnel force, and any exercise of this authority must be reported to the two Intelligence Committees of the Congress.

Title II—Intelligence community staff

Section 201 authorizes appropriations in the amount of $21,900,000 for the staffing and administration of the Intelligence Community Staff for Fiscal Year 1988 and $21,900,000 for Fiscal Year 1989. This staff supports the DCI in the execution of his responsibilities to develop, review, and approve the National Foreign Intelligence program budget, to evaluate the performance of foreign intelligence activities, and to develop issues, goals and other required guidelines for the Intelligence Community.

Section 202(a) authorizes a personnel end strength of 237 full-time staff for the Intelligence Community Staff as of September 30, 1988 and September 30, 1989; and provides that such staff may be either permanent employees or personnel detailed from other elements of the Intelligence Community.

Section 202(b) directs that the personnel employed by the Intelligence Community Staff be selected to provide appropriate representation from various elements of the Intelligence Community.

Section 202(c) requires that personnel be detailed on a reimbursable basis except for temporary situations of less than a year. In the opinion of the Committee, the authorized size of the Intelligence Community Staff is sufficient for the performance of its duties. This provision is intended to insure that its ranks are not swelled by detailees, the personnel costs for whom are not reimbursed to their present agency.

Section 203 provides that the Director of Central Intelligence shall manage the activities and personnel of the Intelligence Community Staff in accordance with the same statutory authorities under which the Central Intelligence Agency is managed. However, it is the Committee's intent that in the case of detailed personnel, the DCI's authority to discharge personnel shall only extend to discharging detailed personnel from service at the Intelligence Community Staff and not from Federal employment or military service.

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Intelligence community staff

Fiscal year	Millions
1987 program	$21.9
1988 request	24.3
Committee recommended change	−2.4
Committee recommendation	21.9
1988 request	25.1
Committee recommended change	−3.2
Committee recommendation	21.9

Title II—Central Intelligence Agency retirement and disability system

Section 301 authorizes appropriations for the Central Intelligence Agency Retirement and Disability System (CIARDS) in the amount of $134,700,000 for Fiscal Year 1988 and $144,500,000 for Fiscal Year 1989. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (Public Law 88-643) authorized the establishment of CIARDS for a limited number of Agency employees and authorized the establishment and maintenance of a fund from which benefits would be paid to qualified beneficiaries.

The benefits structure of CIARDS is essentially the same as for the Civil Service Retirement System, with several special provisions. These special CIARDS provisions are: (a) annuities based upon a straight 2 percent of high 3-year average salary for each year of service, not exceeding 35; (b) under stipulated conditions a participant may retire at age 50 with 20 years of service, or a participant with 25 years of service may be retired by the Director regardless of age; and (c) retirement is mandatory at age 65 for personnel receiving compensation at the rate of GS-18 or above, and at age 60 for personnel receiving compensation at a rate less than GS-18, except that the Director may in the public interest, extend service up to 5 years.

Annuities to beneficiaries are provided exclusively from the CIARDS fund, which is maintained through: (a) contributions, currently at the rate of 7 percent, deducted from basic salaries of participants; (b) matching Agency (employer) contributions from the appropriation from which salaries are paid, based on the actual rate of contributions received from participants; (c) transfers from the Civil Service Retirement and Disability Fund representing employee and matching employer contributions for service of Agency employees prior to the date of their participation in CIARDS, and contributions for service of integrated Agency employees included in CIARDS following termination of integrated status; (d) income on investments in U.S. Government securities, and (e) beginning in 1977 direct appropriations consistent with the provisions of Public Law 94-552.

Central Intelligence Agency retirement and disability system

Fiscal year	Millions
1987 program	$129.5
1988 request	134.5
Committee recommended change	0
Committee recommendation	134.5
1989 request	144.5
Committee recommended change	0
Committee recommendation	144.5

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Title IV—Enhanced counterintelligence and security capabilities

Section 401 requires the Attorney General to report annually to the two Intelligence Committees any cases where Soviet nationals have been admitted to the United States over the objections of the Director of the Federal Bureau of Investigation, for employment by, or assignment to, a diplomatic establishment or international organization in the United States.

Under section 813 of the Foreign Relations Authorization Act for Fiscal Years 1986 and 1987, Congress adopted a policy which provided that the number of nationals of the Soviet Union who were admitted to the United States to serve as diplomatic or consular personnel should be substantially equivalent to the number of U.S. personnel serving in similar posts in the Soviet Union, unless the President determines that the admission of additional Soviet nationals would be in the best interests of the United States. This provision also required a report from the Secretary of State setting forth how these limitations would be maintained.

The Administration submitted the required report to the Congress, which proposed comparable ceilings of 320 personnel in the U.S. and in the Soviet Union, respectively. The Administration also announced in March, 1986, that it would require the Soviet Union to draw down the size of its staff at its mission to the United Nations from 275 persons to 170, to be accomplished by April, 1988. This timetable was considerably accelerated by the Daniloff affair which occurred in October, 1986, which led to the expulsion of 80 Soviet officials from the United States. Most of these officials were chosen to leave the U.S. based upon the FBI's intelligence-gathering activities here.

The Committee applauds these actions of the Administration which it considers fully consistent with the intent of the Foreign Relations Authorization Act, cited above, and with the recommendations of the Committee made in its 1986 report "Meeting the Espionage Challenge."

The Committee is nonetheless concerned that these gains not be nullified by permitting the Soviet Union to replace its diplomatic and consular personnel, admitted under the approved ceilings, with known or suspected intelligence officers. Under section 1182(a)(27) of title 8, United States Code, the U.S. may exclude any aliens "who the consular officer or the Attorney General knows or has reason to believe seek to enter the United States solely, principally, or incidentally to engage in activities which would be prejudicial to the public interest, or endanger the welfare, safety, or security of the United States". The Committee believes this provision provides sufficient authority for the United States to deny admittance to known or suspected intelligence officers of the Soviet Union.

The purpose of section 401 is to provide both Intelligence Committees with information on cases where the FBI has objected to the admission of Soviet nationals to the United States based upon its assessment of such persons as known or suspected intelligence officers, and yet such persons have been admitted for other more compelling reasons.

Section 402 authorizes the Director of the Federal Bureau of Investigation to pay from appropriated funds such additional compen-

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sation as he considers necessary and appropriate to defray unusually high living expenses of FBI employees assigned to the New York Field Division.

The Committee has been advised for some time by the FBI that due to the high costs of living in the New York area, which exceed any other area of the country, the FBI has a difficult time recruiting agents for such assignments, which impose a considerable financial burden on agents and their families under the current pay structure. Agents who are assigned routinely attempt to leave at the earliest opportunity.

From the standpoint of the effectiveness of the FBI's Foreign Counterintelligence Program, the New York Field Division is critically important. To have employees assigned to this division against their wishes, at a considerable financial sacrifice, and to have them take the first opportunity to leave, for the same reason, inevitably undermines the effectiveness of the New York Office in terms of its counterintelligence responsibilities.

The Committee believes that the Director should have authority to pay, if he chooses to do so, additional compensation to this category of employees to deal with this situation. Obviously, the intent is to equalize the financial burden of living in the New York area with that of other areas of the country. It is not to provide employees of the New York Office with compensation which, in reality, exceeds that of other FBI employees.

Title V—DOD intelligence personnel improvements

Section 501 would add a new Section 1606 to Chapter 83 of Title 10, U.S.C., to allow the annual uniform appropriation authorization for civilian employees working for Defense Attache Offices who are required to wear uniforms to be increased to a maximum of $400 per year, an amount comparable to that paid by the Department of State for similar employees working at United States Embassies. Currently, the maximum amount that can be expended under 5 U.S.C. 5901 is $125 per year. The statutory authority for the Department of State to pay uniform allowances (see 22 U.S.C. 2669(e)) sets no maximum amount and the uniform allowance is controlled by regulations of the Department of State. The current amount authorized by Department of State regulations is $360 annually (see 6 Foreign Affairs Manual 241.5).

The Defense Attache Offices currently employ foreign nationals as chauffeurs and uniforms are required to be worn. Similar positions at diplomatic posts for the Department of State afford foreign national employees a uniform allowance benefit which far exceeds the limits imposed on the Defense Attache Offices by Title 5. The State Department has the flexibility to increase the amount of the annual uniform allowance as required while Defense Attache Offices have been bound by the statutory $125 limit since 1966. This has become an increasing problem over the course of 20 years, particularly in times such as these when there is a substantial devaluation in the dollar.

Section 502 extends for the next two fiscal years the termination authority of the Secretary of Defense with respect to the employment of any civilian officer or employee of the Defense Intelligence Agency. Subsection 501(a) of the Intelligence Authorization Act of

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Fiscal Year 1985, Public Law 98-618, authorized the Secretary of Defense to exercise the termination authority described above whenever such an action was considered by him to be in the best interests of the United States and he determined that the termination procedures otherwise authorized by law could not be "invoked in a manner consistent with the national security". This authority was extended by paragraph 1604(e)(1) of Chapter 83 of Title 10, United States Code, for Fiscal Years 1985 and 1986. The regulations which were written to implement this authority were not finalized with the Department of Defense, however, until mid-1986. Section 502 of the Intelligence Authorization Act for Fiscal Year 1987, Public Law 99-569, granted a one-year extension of this authority through Fiscal Year 1987.

The Committee notes that this authority has not been exercised since it was originally provided. Nevertheless, it recognizes that situations might yet arise where such authority would be desirable. It therefore extends this authority for the next two fiscal years.

Section 503 would amend Section 912(a) of the Internal Revenue Code of 1954 to grant tax treatment of allowances currently provided to certain Department of Defense personnel under Section 9(b)(1) of the National Security Agency Act of 1959 and Section 1605 of Title 10, United States Code comparable with that provided to Foreign Service employees for similar allowances.

The Intelligence Authorization Act of 1982 (Public Law 97-89) amended the National Security Agency Act of 1959 to allow the Director, National Security Agency, to provide allowances and benefits to certain civilian employees of the Department of Defense which were comparable to those provided to the State Department's Foreign Service and to employees of the Central Intelligence Agency. During the implementation of this statute, it was discovered that comparability of the allowances could not be achieved unless the tax exemption provided for Foreign Service and Central Intelligence Agency employees under Section 912(1)(A) and (B) of the Internal Revenue Code was also available for civilians employed and assigned to the National Security Agency.

The Intelligence Authorization Act for Fiscal Year 1984 (Public Law 98-215) amended title 10, U.S.C., to provide certain allowances and benefits to personnel assigned to Defense Attache Offices and Defense Intelligence Agency Liaison Offices overseas comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under Chapter 9 of Title 1 of the Foreign Service Act of 1980 and the provisions of 5 U.S.C. § 5924(4). Although Section 1605 was designed to establish equivalence between DAO/DIALO civilians and Foreign Service personnel with respect to many allowances and benefits, the actual value of the allowances and benefits to DAO and DIALO personnel is less than the value of the benefits to Foreign Service personnel, since the benefits granted under the Foreign Service Act and Title 5 are tax free by virtue of Section 912 of the Internal Revenue Code, while those granted under Section 1605 are not exempt from taxation.

The current inequity in taxation has been compounded by Subsection 1232(b) of the Tax Reform Act of 1986 (Public Law 99-514). This subsection provides that civilian employees of the Department of Defense stationed in Panama may exclude from gross income al-

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lowances which are comparable to the allowances excludable under Section 912(a) of the Internal Revenue Code by employees of the Department of State stationed in Panama. Thus, it appears that any Defense Intelligence Agency or National Security Agency personnel stationed in Panama will, in future taxable years, be able to exclude from their gross income Foreign Service-equivalent allowances and benefits granted to them.

As a result of the provisions discussed above, there is now a situation where the tax laws treat identical allowances and benefits of NSA and DIA civilian personnel stationed overseas differently from those of Foreign Service personnel. Moreover, under the Tax Reform Act of 1986, the tax laws now treat identical allowances and benefits differently for NSA and DIA civilian personnel stationed overseas. The addition of the proposed Paragraphs (E) and (F) to Section 912(1) of the Internal Revenue Code of 1954 will provide equal tax treatment for identical allowances and benefits received by NSA, DIA and Foreign Service civilian personnel stationed around the world.

Section 504 would extend the authority of the Secretary of Defense to terminate civilian employees of intelligence elements within the military departments, comparable to the authority granted under section 502 with regard to civilian employees of DIA. Section 504 of the Fiscal Year 1987 Intelligence Authorization Act had provided such authority limited to Fiscal Year 1987. The Committee proposes to extend this authority for the next two fiscal years, pursuant to the same rationale cited for section 502, above.

Section 505 would add a new section 1607 to Chapter 83 of Title 10, United States Code, to exempt the Defense Intelligence Agency from any requirement to disclose information on its organization, functions, or personnel. It would authorize DIA to establish a system similar to that already afforded by statute to CIA and NSA. The purpose of the section is to reduce the potential for compromise of sensitive information through general administrative reporting systems. There are numerous and detailed Executive branch personnel reporting requirements to which CIA and NSA are not required to respond. DIA, lacking similar statutory authority, is required to respond. However, the information requested is for the purposes of compiling and publishing various unclassified personnel reports. The personnel data required to be submitted by DIA is classified and the Executive branch personnel who would receive the classified data are not cleared to handle it. Furthermore, the computer systems into which the personnel data from throughout the government are compiled are not set up to handle classified information. This has placed DIA in the difficult position of being technically required to submit personnel data which is classified but which the receiving Executive branch offices cannot securely handle or use. The proposed statutory exemption would resolve this situation and preclude similar situations in the future.

The second sentence of the proposed provision makes clear that this authority in no manner affects the responsibility of DIA to report information to the Congress, including its responsibilities under section 501 of the National Security Act of 1947 (50 U.S.C. 413) to make certain types of reports to the two Congressional Intelligence Committees.

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The Committee also notes that this authority would be discretionary, not mandatory. To the extent that organizational data concerning DIA can be disclosed either to the public or in satisfaction of Executive branch administrative requirements without jeopardizing sensitive functions of that agency, the Committee believes it should do so. It intends that this authority be limited to those situations where it is needed to protect sensitive activities.

Section 506 amends Section 16 of the National Security Agency Act, enacted in the Intelligence Authorization Act for fiscal year 1987. That section authorizes the establishment of an undergraduate training program to facilitate recruitment of individuals for NSA, particularly minority high school students, needed to develop skills critical to the NSA mission. Section 506 amends that provision to allow the Secretary of Defense to offer advanced training in critical skills such as mathematics, engineering, computer science and foreign languages to sought-after college recruits and valued employees.

The success of the NSA mission depends upon the Agency's ability to recruit and retain the most talented available mathematicians, computer scientists, engineers, and linguists. The Agency's ability to recruit and retain these critical skilled individuals has been severely challenged and diminished in recent years because of the increase in the demand for these important skills in the private industrial community. This is due in part to special incentives that industry can offer to graduating college and university seniors but which the Agency is prohibited by law from offering to its recruits. Among those special incentives is sponsorship for advanced degrees. Section 506 would significantly aid the Agency in competing for the finest graduating talent available by permitting the Agency to match the offers of private firms to sponsor qualified individuals for advanced degrees.

Title VI—General provisions

Section 601 provides that the authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

Section 602 provides advance authorization for such additional appropriations as may be necessary for increases in Federal employee compensation and benefits which are authorized by current or subsequently enacted law during Fiscal Years 1988 and 1989. Section 602 obviates the necessity for separate authorizations for such matters during the fiscal year.

COMMITTEE ACTION

On April 29, 1987, the Select Committee on Intelligence, approved the bill as amended and ordered it favorably reported.

EVALUATION OF REGULATORY IMPACT

In accordance with Paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee finds no regulatory impact will be incurred in implementing the provisions of this legislation.

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CHANGES IN EXISTING LAW

In the opinion of the Committee, it is necessary to dispense with the requirements of Section 12 of Rule XXVI of the Standing Rules of the Senate in order to expedite the business of the Senate.

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